

AMENDED IN ASSEMBLY APRIL 18, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 690**

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**Introduced by Assembly Member Jones**

February 21, 2007

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An act to add Sections 745 and 746 to the Public Utilities Code, relating to water corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 690, as amended, Jones. Water corporations: rates.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including water corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

This bill would prohibit the rates of a water corporation from exceeding the amount necessary to recover the reasonable expenses incurred to provide water service and a reasonable return on capital invested by the water corporation and its shareholders for service to the public. The bill would prohibit a water corporation from recovering in rates, a return on ~~its reasonable expenses incurred~~ *expenses required* to provide water service, or from recovering a return on ~~investments contributed~~ *funds or facilities provided* by developers, public agencies, or ratepayers.

The bill would require, if a water corporation receives monetary compensation for damage resulting from contamination of the utility's water supply, that the commission require the utility to equitably allocate the compensation between the ratepayers and investors of the utility and to require the utility to invest the monetary compensation in a

replacement source of water supply *or other means of mitigating the contamination* to the extent necessary to meet current and future needs of its customers. The bill would require the commission to require the utility to allocate compensation to reduce the cost to ratepayers of any replacement water supply required as a result of the contamination, to the extent ~~that the utility has received a return on its investment in the damaged equipment or facilities from its ratepayers~~ *have paid for the water supply damaged by the contamination, in whole or in part, through the depreciation expense included in water utility rates.* The bill would authorize the commission to allow a water corporation to include in the rate base of the utility, that portion of the proceeds invested in a replacement source of water supply as is necessary to restore the utility's book value for any reduction resulting from the contamination.

(2) Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:  
3 (a) It is the existing policy of the state that rates and charges  
4 established by the Public Utilities Commission for water service  
5 provided by water corporations provide revenues and earnings  
6 sufficient to afford the utility an opportunity to earn a reasonable  
7 return on its used and useful investment ~~and~~, to attract capital for  
8 investment on reasonable terms ~~and~~, to ensure the financial  
9 integrity of the utility, *and* to minimize the long-term cost of *safe*  
10 *and* reliable water service to water customers.

(b) It is a basic principle of ratemaking to establish a rate which will rates that permit the utility to recover its costs and expenses plus a reasonable return on the value of property devoted to public use. Thus, the profit of the utility is calculated solely on the rate base, which is the capital contributed by its investors and the utility is not entitled to earn an additional profit on its expenses, but only to recover them on a dollar-for-dollar basis as part of the rates, or on funds or facilities contributed to the utility by developers, public agencies, or customers.

(c) The Public Utilities Commission has not, however, been consistent in following this basic principle these basic principles of ratemaking and has recently authorized a water corporation to increase its rate base as a result of investments the receipt of funds that were not provided by the utility's investors.

(d) Permitting water corporations to earn a return on investments funds that were not made contributed by the utility's investors, but which were instead made contributed by developers, public agencies, or the water corporation's customers, is inconsistent with state policy and basic principles of ratemaking.

SEC. 2. The Legislature further finds and declares all of the following:

(a) Groundwater contamination has caused water corporations to abandon wells that have been substantially paid for by the utility's ratepayers through depreciation costs included in the utility's rates. Many of these wells would have provided many additional years of safe, reliable, and economical water supply but for the contamination.

(b) Groundwater contamination has also required many water corporations to develop new sources of water supply that are much more costly than the water that was supplied by the abandoned wells.

(c) Many water corporations that have abandoned wells as a result of groundwater contamination have as a result of claims or litigation, obtained compensation for the damage resulting from the contamination from insurers and the parties responsible for the contamination.

(d) In those situations where an abandoned well has been paid for in whole or substantial part by the ratepayers of the water corporation, in fairness, the proceeds of any claim or litigation should be wholly or substantially allocated to reducing the costs

1 to be charged to ratepayers for ~~a replacement source of water~~  
2 *cleanup of the contamination and for any replacement source of*  
3 *water that may be required as a result of the contamination.*

4 (e) The Public Utilities Commission has failed to establish a  
5 *clear or* consistent policy or practice to equitably allocate funds  
6 received by a water corporation in compensation for groundwater  
7 contamination received from insurers and responsible third parties.

8 (f) It is the policy of this state that to the extent possible, in  
9 allocating compensation received by a water corporation in  
10 compensation for damage to a source of water supply, that both  
11 the ratepayers and the shareholders of the water corporation should  
12 be returned to the same financial position each was in before the  
13 contamination occurred.

14 SEC. 3. Section 745 is added to the Public Utilities Code, to  
15 read:

16 745. (a) The rates of a water corporation shall not exceed the  
17 amount necessary to recover the reasonable expenses incurred to  
18 provide water service and a reasonable return on capital invested  
19 by the water corporation and its shareholders for service to the  
20 public. The commission may authorize a water corporation to  
21 retain and reinvest earnings and to earn a rate of return on  
22 reinvested capital.

23 (b) No water corporation shall recover in rates, a return on ~~its~~  
24 ~~reasonable expenses incurred~~ *expenses required* to provide water  
25 service.

26 (c) No water corporation shall recover in rates, a return on  
27 ~~investments contributed~~ *funds or facilities, including contributions,*  
28 *advances, loans, and grants provided* by developers, public  
29 agencies, or ratepayers.

30 SEC. 4. Section 746 is added to the Public Utilities Code, to  
31 read:

32 746. (a) If a water corporation receives monetary compensation  
33 for damage resulting from contamination of the utility's water  
34 supply, the commission shall require the utility to equitably allocate  
35 the compensation between the ratepayers and investors of the  
36 utility.

37 (b) If a water corporation receives monetary compensation for  
38 damage to the utility's equipment or facilities as a result of  
39 contamination, to the extent that ~~the utility has received a return~~  
40 ~~on its investment in the equipment or facilities from its ratepayers,~~

1 *ratepayers have paid for the water supply damaged by the*  
2 *contamination, in whole or in part, through the depreciation*  
3 *expense included in water rates,* the commission shall require the  
4 utility to allocate compensation to reduce the cost to the ratepayers  
5 of any replacement water supply required as a result of the  
6 contamination.

7 (c) If a water corporation receives monetary compensation for  
8 damage resulting from contamination of the utility's water supply,  
9 the commission shall require the utility to invest the monetary  
10 compensation in a replacement source of water supply *or other*  
11 *means of mitigating the contamination* to the extent necessary to  
12 meet the current and future needs of its customers. No water  
13 corporation shall include in rates, the proceeds invested in a  
14 replacement source of water supply except to the extent necessary  
15 to restore the utility and its ratepayers to the same financial  
16 condition they would have been in but for the contamination.

17 (d) Notwithstanding subdivision (c), the commission may allow  
18 a water corporation to include in the rate base of the utility, that  
19 portion of the proceeds invested in a replacement source of water  
20 supply as is necessary to restore the utility's book value for any  
21 reduction resulting from the contamination.

22 SEC. 5. No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution because  
24 the only costs that may be incurred by a local agency or school  
25 district will be incurred because this act creates a new crime or  
26 infraction, eliminates a crime or infraction, or changes the penalty  
27 for a crime or infraction, within the meaning of Section 17556 of  
28 the Government Code, or changes the definition of a crime within  
29 the meaning of Section 6 of Article XIII B of the California  
30 Constitution.